

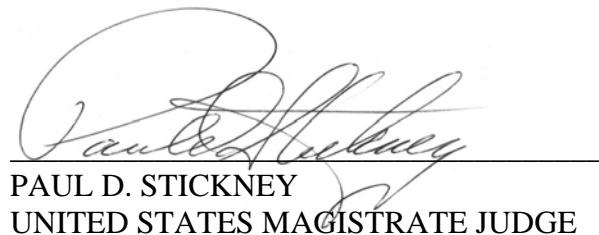
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DONALD PAUL KRAFT, 32199-044,)
PLAINTIFF,)
vs.) No. 3:09-CV-1526-M
DAVID BERKEBILE, Warden FCI) ECF
Seagoville,)
DEFENDANT.)

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

With leave of Court, Donald Paul Kraft (“Plaintiff”), an inmate currently incarcerated at the Federal Correctional Institution in Seagoville, Texas (“FCI Seagoville”), filed an Amended Complaint. This case is before the Court for findings, conclusions, and recommendation with respect to the Motion to Dismiss Plaintiff’s Complaint (“Motion,” doc. 9) of David Berkebile, FCI Warden (“Respondent”), filed October 30, 2009. In light of the filing of Plaintiff’s Amended Complaint, the Court recommends that the Motion (doc. 9) be DENIED AS MOOT.

SO RECOMMENDED, February 8, 2010.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a true copy of these findings, conclusions, and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must serve and file written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these proposed findings, conclusions, and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).